IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1917 OF 2005

Dr. Ashok Gandhi & Ors ...Petitioners

Versus

The State of Maharashtra & Anr ...Respondents

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Smt. Varsha Palav, Advocate for Petitioners

Mr. M.K. Kocharekar h/f Mr. Prakash Naik, Advocate for Respondent No.2.

Mr. B.H. Mehta, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 30TH SEPTEMBER, 2005

P. C.:-

1. Heard both sides.

2. The petitioners i.e. original accused in Criminal Case No. 606/Misc/2001 now numbered as C.C. No.349/PW/2005 pending before the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai, have prayed for quashing of the order dated 24.7.2001 passed by the learned M.M. in the said case. By order dated 24.7.2001 the learned Magistrate directed the D.C.P. EOW Crime Branch to investigate under Section 156(3) of Cr.P.C.

3. Mr. Mehta, the learned A.P.P. and Mr. Kocharekar, the learned advocate for respondent i.e. original complainant, have pointed out that earlier the petitioners have preferred criminal application No.1250 of 2005 before this Court wherein the very same order was challenged. The said application was disposed of by this Court, as infructuous, by order dated 13.4.2005, as the charge sheet was filed. In this view of the matter, obviously, the petitioners cannot challenge the same order again before this Court.

4. Smt. Palav, the learned advocate for the petitioners has pointed out that the charge sheet has been filed in the said case and the petitioners are praying for quashing of the charge sheet and the proceedings relating to the said case. However, there is no such prayer in the present writ petition. It is an admitted fact that the charge sheet has been filed in the said case. In this view of the matter, liberty is granted to the petitioners to prefer appropriate proceedings for quashing of the charge sheet and the proceedings in the said case.

5. Writ petition is disposed of in terms of the above order.

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